

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO**

In re:

**THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO
RICO**

AS REPRESENTATIVE OF

**THE COMMONWEALTH OF PUERTO
RICO**

Debtor

PROMESA, Title III

Case No. 17-BK-3283 (LTS)

**MEMORANDUM AND ORDER GRANTING MOTION REQUESTING
RELIEF FROM THE AUTOMATIC STAY**

Mitsubishi Motor Sales of Caribbean, Inc. (“MMSC”), plaintiff in a civil action filed before the Puerto Rico Court of First Instance, San Juan Section, styled *Mitsubishi Motor Sales of Caribbean, Inc. v. Hon. Raul Maldonado Gautier, as Secretary of the Puerto Rico Treasury Department, et al.*, Civil No. KCO 2016-0026 (903), regarding a request for declaratory judgment and refund of excise taxes paid in excess by MMSC, which has been stayed pursuant to Title III of PROMESA, has filed a Motion Requesting Relief from Automatic Stay.

MMSC moves under Section 362(d)(1) of the United States Bankruptcy Code claiming that in the above referenced civil action:

- (1) a declaratory judgment is warranted to determine that the Secretary of the Puerto Rico Treasury Department acted in an *ultra vires* manner, usurping and/or attributing powers that he does not have regarding the implementation of the imposition of excise taxes with respect to new motor vehicles imported into Puerto Rico by MMSC, illegally imposing additional taxes on the brand new Mitsubishi motor vehicles that MMSC imported into Puerto Rico, which shall otherwise be governed by Sections

3010.01(a)(11) and 3020.08(c)(1) of the Internal Revenue Code of Puerto Rico (“IRC”); and,

- (2) pursuant to the aforementioned illegal imposition of excise taxes, a vacate of the denial for refund of excise taxes paid in excess by MMSC, amounting to \$48,283.18, as per Exhibits B and C of MMSC’s motion requesting relief from automatic stay, plus interest accrued and corresponding, in accordance with the provisions of Section 6025.03 of the IRC, is warranted as a matter of law.

Debtor has filed an objection to MMSC’s Motion Requesting Relief from Automatic Stay and this Court has considered fully the arguments of the parties. It is this Court’s considered opinion that there is cause to lift the automatic stay regarding MMSC’s cause of action related to the entering of a declaratory judgment since it only entails a pronouncement from the local court regarding applicable law. This Court further finds that there is cause to lift the automatic stay as to MMSC’s cause of action regarding the refund of excise taxes paid in excess by MMSC, but this Court specifically directs the local court that, should it find that a vacate of the denial by the Secretary of the Puerto Rico Treasury Department is warranted, the lift from the automatic stay will only be permitted for the refund of excise taxes paid in excess by MMSC in the form of a credit to be granted to MMSC for the payment of future excise taxes to the Puerto Rico Treasury Department. This Memorandum and Order resolves docket entry number _____ in case no. 17-BK-3283-LTS.

REGISTERED AND ORDERED.

Dated: _____, 2018

/s/Laura Taylor Swain

LAURA TAYLOR SWAIN
United States District Court Judge